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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,087	07/20/2001	Thomas Paul Downs		9884

7590

01/21/2003

PAUL DOWNS
P.O. BOX 3191
BEVERLY HILLS, CA 90212

EXAMINER

FIDEI, DAVID

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 01/21/2003

#10

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER


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Commissioner of Patents and Trademarks


David T. Fidei
Primary Examiner
Art Unit: 3728

Art Unit: 3728

Notice of Non-Responsive Amendment

1. The reply filed on January 08, 2003 is not fully responsive to the prior Office Action Mailed September 09, 2002 because:

Applicant was advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143), see paper no. 4 mailed September 09, 2002, paragraph #6.

In paper no. 6, mailed November 04, 2002, applicant was advised the response filed September 24, 2002 was non-responsive because applicant did not include an election of the invention to be examined. Applicant merely argued the claims in the various groups were not divergent and appeared to solicit examination of all the claims. The reply was held inadvertently Non-Responsive and applicant given one month or thirty days to make an election.

A reply was filed December 04, 2002 which did not meet the Requirements of 37 C.F.R. 1.121. A notice of Non-Compliant Amendment was mailed December 10, 2002 giving applicant one month to properly comply with 37 C.F.R. 1.121. A reply received January 07, 2003 successfully fulfilled the requirements of 37 C.F.R. 1.121.

That reply, an amendment filed January 07, 2003 still fails to include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143), see paper no. 4 mailed September 09, 2002, paragraph #6 and paragraph # 1 of paper no. 6 mailed November 04, 2002.

The response mailed January 07, 2003 is not a bona fide attempt to comply 37 CFR 1.143. Rather the reply is an advertent attempt to subvert the original Election/Restriction requirement mailed September 09, 2002. As amended, the presently submitted claims are still independent and distinct inventions for the reasons originally presented, see paper no. 4. }

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2. Since the period for reply set forth in the prior Office action Mailed September 09, 2002 has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Conclusion

3. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

Any inquiry concerning the MERITS of this examination from the examiner should be directed to David T. Fidei whose telephone number is (703) 308-1220. The examiner can normally be reached on Monday - Friday 6:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached at (703) 308-2672. The fax phone numbers for the

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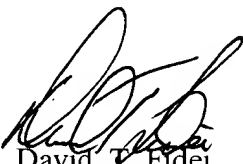
organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8497
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov/


David T. Fidei
Primary Examiner
Art Unit 3728

dtf
January 18, 2003